

FILED

DEC 20 2005

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
DEL RIO DIVISION

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY [Signature]  
DEPUTY CLERK

NORMA M. ROBLES,

Plaintiff,

vs.

UVALDE COUNTY HOSPITAL AUTHORITY  
d/b/a UVALDE MEMORIAL HOSPITAL,

Defendant.

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**DR05 CA113**

CIVIL ACTION NO. \_\_\_\_\_

JURY TRIAL DEMAND

**PLAINTIFF'S ORIGINAL COMPLAINT**

This is an action under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of sex, female, and because of her engagement in a protected activity, and to provide appropriate relief to Plaintiff Norma M. Robles (hereinafter "Ms. Robles") who was adversely affected by such practices. Ms. Robles was subjected to unlawful discrimination when she was wrongfully disciplined and eventually terminated by Defendant Uvalde County Hospital Authority d/b/a Uvalde Memorial Hospital (hereinafter "Uvalde Memorial").

**JURISDICTION AND VENUE**

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3) ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

2. The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the Western District of Texas, Del Rio Division.

AMK/VRG

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### **PARTIES**

3. Plaintiff Norma M. Robles is a former employee of Uvalde Memorial, and is currently a resident of Uvalde, Uvalde County, Texas.

4. At all relevant times, Defendant Uvalde Memorial, is a healthcare provider registered to do business in the State of Texas, and has continuously been doing business in the State of Texas in the City of Uvalde, Texas, and has continuously had at least fifteen employees. Defendant Uvalde Memorial may be served process through its President, M.E. ("Butch") Keath, at the physical address of his place of employment: 128 Center Street, Sabinal, Texas 78881.

5. At all relevant times, the Defendant Uvalde Memorial has continuously been an employer engaged as a healthcare provider affecting commerce within the meaning of Section 701(b), (g), and (h) of Title VII, 42 U.S.C. §§2000e-(b), (g), and (h).

### **STATEMENT OF CLAIMS**

6. More than thirty days prior to the institution of this lawsuit, Norma M. Robles filed a charge with the Equal Employment Opportunity Commission alleging violations of Title VII by Defendant Uvalde Memorial. All conditions, precedent to the institution of this lawsuit, have been fulfilled.

7. Since at least on or about February 17, 2004 through October 15, 2004, Defendant Uvalde Memorial has engaged in unlawful employment practices at its Uvalde healthcare facility in the City of Uvalde, Texas, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. §§ 2000e(k) and 2000e-2(a). These unlawful practices were to subject Norma M. Robles, an insurance clerk, to discrimination in failing to promote her based on her sex, female; disciplinary action; and termination based on her sex, female, and her engagement in a protected activity.

Norma M. Robles complains that she was discriminated against because of her sex, female, when Defendant Uvalde Memorial, after eight years of loyal service, assigned a new supervisor, Gumecindo Rocha, who wrote her up five times, to-wit: (i) Fri., 7/9/04 6:08 = 8 minutes late; (ii) Thur., 7/15/04 9:37 = counted her as late, but was a day off; (iii) Fri., 7/16/04 6:11 = 11 minutes late; (iv) Mon., 7/19/04 6:06 - 6 minutes late; (v) Fri., 7/23/04 9:18 - excused it and then underlined it, and stated that *men can do a better job than women*. At the same time, a male co-worker, Martin Coward, was given a write up by Mr. Rocha for the same violation, but was permitted to take his punishment on a three-day weekend, while Ms. Robles was forced to take her punishment on a Wednesday. In addition, a male employee was given a salary increase greater than the 3.5% given to female employees. In addition, a female co-worker was demoted back to a position she had previously held, and then replaced by a male. Ms. Robles had been complying with Uvalde Memorial's policy and procedures and she had no write up, until after February, 2004. Suddenly, after more than eight years of loyalty to Uvalde Memorial, Ms. Robles was denied a probation equal to the probation of her male counterparts; and on or about October 15, 2004, she was terminated. Ms. Robles believes she has been discriminated against because of her sex, female. Ms. Robles stated that she complained of being "singled out" in her disciplinary action for problems that other similarly situated male employees were not being disciplined. Finally, Plaintiff complains that she was terminated for alleged violations of company policy for which similarly situated male employees, who had also violated company policy, were not terminated. Ms. Robles complains that she did not violate company policy and male employees who did violate company policy were not terminated. Finally, Ms. Robles complains that Defendant wrongfully terminated her because she was a female, and for having

engaged in a protected activity, and that the reasons given by Uvalde Memorial for her termination are pretextual.

8. The effect of the practices complained of in paragraph seven above have been to deprive Norma M. Robles of equal employment opportunities and to otherwise adversely affect her status as an employee, because of his gender, female.

9. The unlawful employment practices complained of in paragraph seven were and are intentional.

10. The unlawful employment practices complained of in paragraph seven above were and are being done with malice or reckless indifference to the federally protected rights of Norma M. Robles.

#### **PRAYER FOR RELIEF**

Wherefore, Plaintiff respectfully requests that this Court:

A. Order the Defendant Uvalde County Hospital Authority d/b/a Uvalde Memorial Hospital to make whole Norma M. Robles, by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to the re-instatement of Norma M. Robles as an insurance clerk;

B. Order the Defendant Uvalde County Hospital Authority d/b/a Uvalde Memorial Hospital, to make whole Norma M. Robles, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph seven above, including, but not limited to, medical expenses and job search expenses, in amounts to be determined at trial;

C. Order the Defendant Uvalde County Hospital Authority d/b/a Uvalde Memorial Hospital to make whole Norma M. Robles, by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraph seven above, including, but not limited to, emotional pain, suffering, loss of enjoyment of life, and humiliation, in amounts to be determined at trial;

D. Order the Defendant Uvalde County Hospital Authority d/b/a Uvalde Memorial Hospital, to pay Norma M. Robles punitive damages for its malicious and reckless conduct described in paragraph seven above, in amounts to be determined at trial;

E. Grant such further relief as the Court deems necessary and proper in the public interest; and

F. Award attorneys' fees to Plaintiff.

**JURY TRIAL DEMAND**

Plaintiff requests a jury trial on all questions of fact raised by her Complaint.

Respectfully submitted,

MALAISE & DAVIS, L.L.P.  
5002 West Avenue, Suite 100  
San Antonio, Texas 78213  
(210) 734-3599 Telephone  
(210) 734-2730 Facsimile

By: 

JEFFREY R. DAVIS  
State Bar No. 005508350  
R. CHRIS PITTARD  
State Bar No. 00794465

ATTORNEYS FOR PLAINTIFF,  
NORMA M. ROBLES

**EXHIBIT "A"**

**Notice of Right to File A Civil Action**

Mailing address:  
P.O. Box 13006  
Austin, Texas 78711 or  
101 East 15<sup>th</sup> Street, Room 144T  
Austin, TX 78778  
www.twc.state.tx.us



(512) 463-2642 Main  
(512) 463-2643 Fax  
(888) 452-4778 Toll Free  
(800) 735-2989 Texas Relay

**Texas Workforce Commission  
Civil Rights Division**

December 1, 2005

**NOTICE OF RIGHT TO FILE A CIVIL ACTION**

Jeffrey R. Davis, Attorney  
MALAISE & DAVIS L.L.P.  
5002 WEST AVENUE  
SAN ANTONIO, TX 78213

Re: *Norma M. Robles v. UVALDE MEMORIAL HOSPITAL*  
EEOC Complaint #360A500343  
TCHR/Local Commission Complaint #

Pursuant to Sections 21.252 and 21.254 of the Texas Labor Code, and Chapter 327, Section 327.7 of the Commission's Rules, this notice is to advise you of your right to bring a private civil action in state court in the above-referenced case. PLEASE BE ADVISED THAT YOU HAVE SIXTY (60) DAYS FROM THE RECEIPT OF THIS NOTICE TO FILE THIS CIVIL ACTION. If the above-referenced case was processed by the United States Equal Employment Opportunity Commission or another agency, you should also notify that agency as to your intention to file a civil action.

If your case has been successfully resolved by the U. S. Equal Employment Opportunity Commission or another agency through a voluntary settlement or conciliation agreement, you may be prohibited by the terms of such an agreement from filing a private civil action in state court pursuant to the Texas Commission on Human Rights Act, as amended.

The United States Supreme Court has held in *Kremer v. Chemical Construction Corporation*, 456 U.S. 461 (1982), that a federal district court must generally dismiss a Title VII action involving the same parties and raising the same issues as those raised in a prior state court action under Chapter 21 of the Texas Labor Code. Therefore, filing a lawsuit in state court based on the issuance of this notice of right-to-sue may prevent you from filing a lawsuit in federal court based on Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e - et seq.

Sincerely,  
A handwritten signature in dark ink, appearing to read "Vickie Covington", is written over the word "Sincerely,".

Vickie Covington  
Employment Investigations Manager

**RETAIN ENVELOPE TO VERIFY DATE RECEIVED**

Copy to:

Amber Garcia  
DIRECTOR OF HUMAN RESOURCES  
1025 GARNER FIELD RD.  
UVALDE, TX 78801

CERT-C-NCO2(6/92)

"The Texas Workforce Commission is an Equal Opportunity Employer"